

REMARKS

Reconsideration and withdrawal of the examiner's rejection under 35 U.S.C. §103 is respectfully requested in view of the following remarks.

35 USC §103

The examiner has rejected claims 1-5 under 35 U.S.C. 103(a) as being unpatentable over Marks (U.S. 4115939) in view of Moore (U.S. 2305890), asserting the following:

Marks disclose a container assembly having a front partially transparent label (12) having graphics and a rear label (14) located directly underneath said front label with complimentary graphics thereon. Marks lack the disclosure of complimentary graphics located on the container surface directly underneath said front label. Moore teaches that it is well known in the art to use complimentary graphics (13) on a container wall. It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the rear label of Marks with complimentary graphics located on the container surface directly underneath said front label in the manner as taught by Moore to reduce the cost of the assembly.

In regard to claims 3 and 4, the examiner takes Official Notice of the use of pressure sensitive acrylic adhesive and a substrate of polypropylene. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use these claimed features since the use of such is old and well known in the art. Further there would appear to be no inventive advantage by the use of such.

In regard to claim 5, it would have been an obvious matter of design choice to one having ordinary skill in the art at the time the invention was made to form the assembly such that the claimed removal force is needed, since applicant has not disclosed that this solves any stated problem or is for any particular purpose. Applicants respectfully traverse these rejections.

To establish prima facie obviousness under 35 U.S.C. 103, all the claim limitations must be taught or suggested by the prior art. MPEP 1504.03 (II) or 706.02 (J). Among other deficiencies, the combination of Marks and Moore cited by the examiner does not show or suggest at least one wall containing graphics and a label removably affixed directly to said wall and said graphics. Marks discloses a glass bottle containing a light permeable liquid that has a front and rear label section thereon to view the cooperative relationship. The front and rear label sections are on opposed sides of the bottle in Marks (see column 2, line 59 to line 61), which is at variance with the examiner's description of what Marks discloses. This arrangement is not the same as the "one wall" in the claim that contains both graphics and the label removably affixed to said wall. Moore does not remedy the deficiencies of Marks with respect to this claim element as Moore also discloses a bottle that has complimentary graphics on opposed walls and not the same wall (see fig. 3 where sailboat 13 is positioned on obverse side 11 and seascape 14 is positioned on reverse side 12). Therefore, applicants respectfully assert that a prima facie case of obviousness under 35 U.S.C. 103 has not been established in the instant case with respect to Marks and Moore.

Applicants note that official notice is taken of the use of pressure sensitive acrylic adhesive and the substrate of polypropylene with respect to claims 3 and 4. However, since claims 3 and 4 ultimately depend from claim 1 and the prima facie case of obviousness has not been made out for claim 1, official notice does not remedy the deficiencies of Marks and Moore with respect to claims 3 and 4.

With respect to the examiner's assertion that the applicant has not disclosed that the claimed removal force of claim 5 is needed, applicants respectfully direct the examiner to the specification on page 2, lines 24 to 28, where it is stated that a reworkable pressure sensitive adhesive constitutes a preferred embodiment of the invention. This embodiment is recited in claim 1, element c, wherein it is a requirement that the wall and said graphics adhered to said wall remain intact when said label is removed. It is well known to those skilled in the art that a reworkable adhesive is the kind of adhesive that fails within the adhesive layer (adhesive failure) and not within the substrate layers that are adhered to the adhesive (cohesive failure). This failure mechanism provides the reworkable adhesive with its name "reworkable" and prevents damage to the underlying walls and graphics adhered to the walls that are adjacent to the adhesive. Thus, claim 5 recites a preferred embodiment of the removal force that characterizes a reworkable adhesive.

CONCLUSION

In light of the above remarks, applicants submit that the claims now pending in the present application are in condition for allowance. Reconsideration and allowance of the application is respectfully requested.

If a telephone interview would facilitate prosecution of the application, the Examiner is invited to contact the undersigned at the number provided.

Respectfully submitted,


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